

110TH CONGRESS
2D SESSION

H. R. 7083

To amend the Internal Revenue Code of 1986 to enhance charitable giving
and improve disclosure and tax administration.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Mr. LEWIS of Georgia (for himself, Mr. RAMSTAD, Mr. THOMPSON of California, Mr. KIND, Mr. POMEROY, and Mr. NEAL of Massachusetts) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to enhance
charitable giving and improve disclosure and tax adminis-
tration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Charity Enhancement Act of 2008”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Funds advised by certain public charities and governmental entities not
 treated as donor advised funds.

Sec. 3. Certain scholarship distributions from donor advised funds not treated
 as taxable distributions.

Sec. 4. Repeal of special written acknowledgment requirement for charitable
 contributions to donor advised funds.

Sec. 5. Reasonable compensation paid by supporting organizations to substan-
 tial contributors not treated as an excess benefit.

Sec. 6. Exception from holdings and payout requirements for longstanding,
 fully funded type III supporting organizations.

Sec. 7. Contributions by Indian tribal governments treated same as contribu-
 tions by States.

Sec. 8. Electronic filing of exempt organization annual returns.

Sec. 9. Expansion of bad check penalty to electronic payments, etc.

5 **SEC. 2. FUNDS ADVISED BY CERTAIN PUBLIC CHARITIES**
 6 **AND GOVERNMENTAL ENTITIES NOT TREAT-**
 7 **ED AS DONOR ADVISED FUNDS.**

8 (a) IN GENERAL.—Subparagraph (B) of section
 9 4966(d)(2) is amended by striking “or” at the end of
 10 clause (i), by striking the period at the end of clause (ii)
 11 and inserting “, or”, and by adding at the end the fol-
 12 lowing new clause:

13 “(iii) if all contributions to such fund
 14 or account have been made, and all advi-
 15 sory privileges referred to in subparagraph
 16 (A)(iii) with respect to such fund or ac-
 17 count have been exercised, by either—

1 “(I) one or more organizations
 2 described in clause (i), (ii), (iii), (iv),
 3 or (vi) of section 170(b)(1)(A) or sec-
 4 tion 509(a)(2), or
 5 “(II) one or more entities de-
 6 scribed in section 170(c)(1).”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years ending after the
 9 date of the enactment of this Act.

10 **SEC. 3. CERTAIN SCHOLARSHIP DISTRIBUTIONS FROM**
 11 **DONOR ADVISED FUNDS NOT TREATED AS**
 12 **TAXABLE DISTRIBUTIONS.**

13 (a) IN GENERAL.—Subsection (c) of section 4966 is
 14 amended by adding at the end the following new para-
 15 graph:

16 “(3) EXCEPTION FOR CERTAIN SCHOLARSHIP
 17 DISTRIBUTIONS.—

18 “(A) IN GENERAL.—The term ‘taxable dis-
 19 tribution’ shall not include any qualified schol-
 20 arship distribution from a qualified scholarship
 21 fund.

22 “(B) QUALIFIED SCHOLARSHIP DISTRIBUTION.—The term ‘qualified scholarship distribu-
 23 tion’ means any grant to a natural person for
 24 travel, study, or other similar purposes made
 25

1 from a donor advised fund if all such grants
 2 meet the requirements of subsection
 3 (d)(2)(B)(ii)(III).

4 “(C) QUALIFIED SCHOLARSHIP FUND.—
 5 The term ‘qualified scholarship fund’ means
 6 any donor advised fund if—

7 “(i) the advisory privileges referred to
 8 in subsection (d)(2)(A)(iii) with respect to
 9 such fund are exercised solely by an orga-
 10 nization described in paragraph (4) of sec-
 11 tion 501(c) and exempt from tax under
 12 section 501(a), and

13 “(ii) substantially all of the distribu-
 14 tions from such fund are qualified scholar-
 15 ship distributions.”.

16 (b) APPLICATION OF TAX ON PROHIBITED BENEFITS
 17 TO QUALIFIED SCHOLARSHIP DISTRIBUTIONS.—Sub-
 18 section (c) of section 4967 is amended by adding at the
 19 end the following new paragraph:

20 “(3) QUALIFIED SCHOLARSHIP FUNDS.—Each
 21 substantial contributor (as defined in section
 22 4958(c)(3)(C)) to a qualified scholarship fund and
 23 each family member (within the meaning of section
 24 4958(f)(4)) of such person shall be treated as a per-

1 son described in subsection (d) with respect to such
 2 fund.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to distributions made after the
 5 date of the enactment of this Act.

6 **SEC. 4. REPEAL OF SPECIAL WRITTEN ACKNOWLEDGMENT**
 7 **REQUIREMENT FOR CHARITABLE CONTRIBU-**
 8 **TIONS TO DONOR ADVISED FUNDS.**

9 (a) IN GENERAL.—Paragraph (18) of section 170(f)
 10 is amended—

11 (1) by striking subparagraph (B),

12 (2) by striking “if—” and all that follows
 13 through “the sponsoring organization (as defined in
 14 section 4966(d)(1))” and inserting “if the spon-
 15 soring organization (as defined in section
 16 4966(d)(1)))”, and

17 (3) by redesignating clauses (i) and (ii) of sub-
 18 paragraph (A) (as in effect before amendment by
 19 paragraph (2)) as subparagraphs (A) and (B) and
 20 by moving such subparagraphs 2 ems to the left.

21 (b) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years ending after the
 23 date of the enactment of this Act.

1 **SEC. 5. REASONABLE COMPENSATION PAID BY SUP-**
2 **PORTING ORGANIZATIONS TO SUBSTANTIAL**
3 **CONTRIBUTORS NOT TREATED AS AN EXCESS**
4 **BENEFIT.**

5 (a) IN GENERAL.—Clause (ii) of section
6 4958(c)(3)(A) is amended to read as follows:

7 “(ii) the term ‘excess benefit’ includes,
8 with respect to any transaction described
9 in clause (i)—

10 “(I) in the case of any grant,
11 loan, or similar payment, the amount
12 of such grant, loan, or similar pay-
13 ment, and

14 “(II) in the case of any com-
15 pensation or similar payment, the
16 amount by which the value of the eco-
17 nomic benefit provided exceeds the
18 value of the consideration (including
19 the performance of services) received
20 for providing such benefit.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid pursuant to trans-
23 actions entered into after the date of the enactment of
24 this Act.

1 **SEC. 6. EXCEPTION FROM HOLDINGS AND PAYOUT RE-**
 2 **QUIREMENTS FOR LONGSTANDING, FULLY**
 3 **FUNDED TYPE III SUPPORTING ORGANIZA-**
 4 **TIONS.**

5 (a) **HOLDINGS REQUIREMENTS.**—Subsection (f) of
 6 section 4943 is amended by adding at the end the fol-
 7 lowing new paragraph:

8 “(8) **EXCEPTION FOR CERTAIN LONGSTANDING**
 9 **FULLY FUNDED TYPE III SUPPORTING ORGANIZA-**
 10 **TIONS.**—Paragraph (1) shall not apply to any orga-
 11 nization if—

12 “(A) the organization was established be-
 13 fore January 1, 1970,

14 “(B) the organization has not accepted any
 15 substantial contributions after December 31,
 16 1970,

17 “(C) no donor to the organization was
 18 alive on August 17, 2006, and

19 “(D) no family member (within the mean-
 20 ing of section 4958(f)(4)) of any donor is an or-
 21 ganization manager (as defined in section
 22 4958(f)(2)).”.

23 (b) **PAYOUT REQUIREMENTS.**—Section 1241(d)(1) of
 24 the Pension Protection Act of 2006 shall not apply to any
 25 organization described in section 4943(f)(8) of the Inter-
 26 nal Revenue Code of 1986, as added by this section.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years ending after the
 3 date of the enactment of this Act.

4 **SEC. 7. CONTRIBUTIONS BY INDIAN TRIBAL GOVERNMENTS**
 5 **TREATED SAME AS CONTRIBUTIONS BY**
 6 **STATES.**

7 (a) IN GENERAL.—Section 7871(a) (relating to In-
 8 dian tribal governments treated as States for certain pur-
 9 poses) is amended by striking “and” at the end of para-
 10 graph (6), by striking the period at the end of paragraph
 11 (7) and inserting “; and”, and by adding at the end the
 12 following new paragraph:

13 “(8) for purposes of—

14 “(A) determining support of an organiza-
 15 tion described in section 170(b)(1)(A)(vi), and

16 “(B) determining whether an organization
 17 is described in paragraph (1) or (2) of section
 18 509(a) for purposes of section 509(a)(3).”.

19 (b) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply with respect to—

21 (1) support received on or after the date of the
 22 enactment of this Act, and

23 (2) the determination of the status of any orga-
 24 nization with respect to any taxable year beginning
 25 after such date of enactment.

1 **SEC. 8. ELECTRONIC FILING OF EXEMPT ORGANIZATION**
2 **ANNUAL RETURNS.**

3 (a) IN GENERAL.—Subsection (d) of section 6104
4 (relating to public inspection of certain annual returns, re-
5 ports, applications for exemption, and notices of status)
6 is amended—

7 (1) by redesignating the paragraph relating to
8 disclosure of reports by Internal Revenue Service as
9 paragraph (7),

10 (2) by redesignating the paragraph relating to
11 application to nonexempt charitable trusts and non-
12 exempt private foundations as paragraph (8), and

13 (3) by adding at the end the following new
14 paragraph:

15 “(9) RETURNS REQUIRED ON MAGNETIC MEDIA,
16 ETC.—Any organization (other than an organization
17 exempt from tax under section 527(a)) which—

18 “(A) is required to make available informa-
19 tion for inspection under paragraph (1)(A), and

20 “(B) would be required to file returns on
21 magnetic media or in other machine-readable
22 form under subsection (e) of section 6011 if
23 such subsection were applied by substituting ‘at
24 least 5 returns’ for ‘at least 250 returns’ in
25 paragraph (2)(A) thereof,

1 shall file the information referred to in clauses (i)
2 and (ii) of paragraph (1)(A) on such magnetic media
3 or in other machine-readable form.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to returns required to be filed
6 for taxable years beginning after the date of the enactment
7 of this Act.

8 **SEC. 9. EXPANSION OF BAD CHECK PENALTY TO ELEC-**
9 **TRONIC PAYMENTS, ETC.**

10 (a) IN GENERAL.—Section 6657 (relating to bad
11 checks) is amended by adding at the end the following:
12 “Except as otherwise provided by the Secretary, any au-
13 thorization of a payment by commercially acceptable
14 means (within the meaning of section 6311) shall be treat-
15 ed for purposes of this section in the same manner as a
16 check.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to authorizations of payments
19 made after December 31, 2005.

○